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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/563,670	05/11/2006	Bernhard Frey	P-8507-US	1512
49443 7590 12/27/2007 PEARL COHEN ZEDEK LATZER, LLP 1500 BROADWAY 12TH FLOOR NEW YORK, NY 10036			EXAMINER LESLIE, MICHAEL S	
			ART UNIT 3745	PAPER NUMBER
			MAIL DATE 12/27/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<div style="border: 1px solid black; width: 200px; height: 20px; margin-bottom: 5px;"></div> <p style="text-align: center;">Office Action Summary</p>	Application No. 10/563,670	Applicant(s) FREY, BERNHARD	
	Examiner Michael Leslie	Art Unit 3745	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☒ Claim(s) 5 and 6 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 January 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>1/6/2006</u> . | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
5) <input type="checkbox"/> Notice of Informal Patent Application
6) <input type="checkbox"/> Other: _____. |
|--|---|

DETAILED ACTION

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "plurality of hollow spaces" (claim 4) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

The abstract of the disclosure is objected to because it exceeds the limit of 150 words. Correction is required. See MPEP § 608.01(b).

Claim Objections

Claims 1 and 2 are objected to because of the following informalities: Claim 1, Line 4, "the shaft" should be --a shaft--, "the crank" should be --a crank--, Line 5, "this axis" should be --the axis--; Claim 2, Line 2, "a bearing" should be --the bearing--, Lines 3-4, "the peripheral" should be --a peripheral--. Appropriate correction is required.

Claims 5 and 6 are objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim cannot depend from any other multiple dependent claim. See MPEP § 608.01(n). Accordingly, the claims have not been further treated on the merits.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-4 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The term "at least approximately" in claim 1 is a relative term which renders the claim indefinite. The term "at least approximately" is not defined by the claim, the specification does

not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. The extent of the hollow space arrangement has been rendered indefinite.

Claims 2-4 are rejected due to their dependence from claim 1.

NOTE: The term "at most about" in claim 6 is a relative term which renders the claim indefinite. The term "at most about" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. The angular spacing of the hollow space arrangement has been rendered indefinite.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3 are rejected under 35 U.S.C. 102(b) as being anticipated by Takahashi (4132510).

Takahashi discloses an eccentric drive mechanism for volumetrically operating pumps or motors including at least one stroke member (28) is provided which is rotationally fixed to a shaft (25) of a crank mechanism and has at least one stroke bearing (27) eccentric relative to the axis of the shaft, the stroke bearing connects the stroke member to a coupling member (22) which does not participate in the rotary movement and which is in turn connected by a transverse

bearing (30) to at least one pressure member (6) for the oscillating delivery drive mechanism of at least one piston-cylinder unit, at least one pressure delivery source (not shown) is provided for fluid lubricant and is connected at the output side to the transverse bearing via a passage system, starting from a connection passage (29) connected to the pressure delivery source the passage system includes at least one first passage (not labeled) which extends through the stroke member into the stroke bearing and at least one second passage (31) which extends from the stroke bearing through the coupling member into the transverse bearing, wherein a hollow space arrangement (33) is provided in the region of the stroke bearing within a bearing surface associated with the stroke member for the further conduction of the lubricating fluid to at least one second passage and this hollow space arrangement has, within the bearing surface and in the peripheral direction of the stroke member an arrangement and/or an extent which permits a flow of lubricating fluid between a first passage and a second passage in each case only within a low pressure phase of the lubricating fluid in the stroke bearing or in the transverse bearing. Wherein the hollow space arrangement is disposed in the bearing surface of the stroke member which extends over at least a part of the peripheral section of the stroke member corresponding to the low pressure phase of the eccentric drive mechanism and has a boundary which extends at least section-wise with a spacing from the boundaries of this bearing surface and has at least one hollow space in the form of a groove extending at most over a semicircular peripheral section of the stroke member.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Takahashi (4132510) in view of Daniel et al (5493952).

Takahashi et al discloses an eccentric drive mechanism as described above with respect to one of claims 2 or 3, but does not teach a plurality of hollow spaces offset with respect to one another.

Daniel et al discloses a lubrication system for a stroke member (16) and coupling member (28a,b) having at least one first passage (56) and at least one second passage (75), and a plurality of hollow spaces (73a,b, 74a,b).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the hollow space arrangement of Takahashi et al by having a plurality of hollow spaces as taught by Daniel et al for the purpose of increasing lubricant delivery to the sliding surfaces.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. 4567815, 3519370, and 3093301 each disclose lubricating systems for an eccentric drive mechanism.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Leslie whose telephone number is (571) 272-4819. The examiner can normally be reached on M-F 8:00am - 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Look can be reached on (571) 272-4820. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

ML
December, 18 2007


Michael Leslie
Primary Examiner
AU 3745